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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS
WESTERN SECTION

NATIONAL GRID COMMUNICATIONS, INC.)

Plaintiff)

v.)

TOWN OF LENOX and)

LENOX ZONING BOARD OF APPEALS)

C.A. No. 05-30131-MAP

**MOTION OF MOHAMED A. ZABIAN, JR. FOR
LEAVE TO INTERVENE AS DEFENDANT**

Mohamed A. Zabian, Jr. respectfully requests that this Court grant leave for him to intervene as a defendant in this case. Mr. Zabian owns the property upon which the Plaintiff, National Grid Communications, Inc. ("National Grid") will cross to construct the telecommunications tower which is the subject of this litigation. Mohamed A. Zabian is the abutter of an abutter and within three hundred feet of the property line, and therefore, a "party in interest" with the right to appeal a special permit granted to National Grid pursuant to Massachusetts General Laws c. 40A, Section 11.

Mr. Zabian learned only this week, as shown by the attached Affidavit of Mohamed A. Zabian, Jr. that the Town of Lenox was negotiating an agreement with National Grid to allow the construction of the cell tower on the property adjacent to his property. Mr. Zabian is quite concerned that the use of the easement by National Grid will harm his access to his property and that the proposed cell tower will be visible from

his property and adversely affect the value of the land for the homes he intends to build there.


As set forth in the attached Memorandum of Law filed with this Motion, Mr. Zabian respectfully submits that he has a direct interest in this litigation, that his interests are not represented by any other party to this litigation, and that he is entitled to intervene under Fed. R. Civ. P. 24 (a)(2) and/or Fed. R. Civ. P. 24(b).

WHEREFORE, Mohamed A. Zabian, Jr. requests that this Court allow his Motion to Intervene as a Defendant in this proceeding.

Respectfully submitted,

Mohamed A. Zabian, Jr.
By his attorneys:

Dated: November 10, 2006



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